

SAN DIEGO COUNTY PLANNING COMMISSION
Regular Meeting – February 13, 2009
DPLU Hearing Room, 9:00 a.m.

The meeting convened at 9:04 a.m., recessed at 9:59 a.m., reconvened at 10:26 a.m., recessed at 12:20 p.m., reconvened at 12:25 p.m. and adjourned at 12:46 p.m.

A. ROLL CALL

Commissioners Present: Beck, Brooks (out @ 12:25 p.m.), Day, Norby, Pallinger, Riess, Woods

Commissioners Absent: None

Advisors Present: Mehnert, Taylor (OCC); Shick, Sinsay (DPW)

Staff Present: Farace, Gibson, Giffen, Grunow, Hingtgen, Johnston, Murphy, Winslow, Jones (recording secretary)

B. Statement of Planning Commission's Proceedings, Approval of Minutes for the Meeting of November 21, December 5 and December 19, 2008, and January 9, 2009.

Action: Day - Brooks

Approve the Minutes of November 21, December 5 and December 19, 2008.

Ayes: 6 - Beck, Brooks, Day, Pallinger, Riess, Woods
Noes: 0 - None
Abstain: 1 - Norby
Absent: 0 - None

Action: Day – Brooks

Approve the Minutes of January 9, 2009.

Ayes: 7 - Beck, Brooks, Day, Norby, Pallinger, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 0 - None

Administrative:

- C. **Public Communication:** Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item on today's Agenda.

Barbara Ayles requests that Staff's presentation on secondary access (to be provided during the Director's Report, Item G) be postponed and rescheduled as a actionable Agenda Item so the public can provide input. Counsel reminds those in attendance that the public has the ability to take speak about any Item on the Commission's Agenda and the Planning Commission has the ability to take action on any Item on the Agenda.

- D. **Announcement of Handout Materials Related to Today's Agenda Items**

- E. **Requests for Continuance:** Item 1 (TM 5511RPL³/S07-019

- F. **Formation of Consent Calendar:** Items 1 (TM 5511RPL³/S07-019, Continuance) and 4 (P78-038W⁷)

POD 08-005, Agenda Item 2:

1. **KRS Development, Tentative Map (TM) 5511RPL³ and Site Plan S07-019, Borrego Springs Community Plan Area** (continued from January 9, 2009)

Request for a Vesting Tentative Map to subdivide a 50.69-acre property into 17 single-family residential lots of at least 2 acres each, along with one 11.6 acre commercial lot. The project site is located west of Hoberg Road and north of Palm Canyon Drive, abutting Anza-Borrego Desert State Park. No extension of sewer or water utilities will be required by the project, and no development is currently proposed for the commercially-zoned lot. Such development will be required to be approved under a subsequent Site Plan permit.

Staff Presentation: Taylor

Proponents: 0; **Opponents:** 0

The applicant is unable to attend this hearing, and has requested a 60-day continuance to allow further discussions on an unresolved issue.

Action: Brooks – Day

Continue consideration of TM 5511RPL³/S07-019 to the meeting of April 24, 2009.

Ayes:	7 -	Beck, Brooks, Day, Norby, Pallinger, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	0 -	None

POD 08-005, Agenda Item 2:**2. Proposed Zoning Ordinance Amendment, POD 08-005, Second Dwelling Units, Accessory Apartments, Countywide Continued from December 5, 2008**

Proposed amendment to the San Diego County Zoning Ordinance to simplify the various accessory dwelling types. Zoning Ordinance Section 6156 identifies four types of accessory dwellings: Second Dwelling Units, Accessory Apartments, Accessory Living Quarters and Guest Living Quarters. DPLU is proposing to reduce the number of accessory units into two types: Second Dwelling Units and Guest Living Quarters, and proposing changes to the limitations on said units.

Staff Presentation: Steven

Proponents: 3; **Opponents:** 0

Discussion:

Commissioner Norby believes the Ordinance as it currently exists allows the balance and flexibility needed to ensure that families are able to provide assistance to family members when necessary. He reminds those in attendance today that many families live in the same houses or on the same properties for generations. This type of longevity strengthens neighborhoods and accessory apartments/living quarters, second dwelling units, granny flats and guest living quarters allow that to happen. Commissioner Norby believes Staff's recommendations would prohibit many residents from being able to provide safe and familiar homes for their family members when the need arises. Staff explains that the intent of the amendments is to streamline the Ordinance and provide a clear distinction between second dwelling units, which contain kitchens, and guest living quarters, which do not. For example, provisions for wet-bars were removed from the guest living quarters category because it was found that it seemed to encourage illegal conversion of guest living quarters into second dwelling units. Guest living quarters are not intended to be utilized as rental units.

Commissioner Norby realizes that there will always be 1-2% of the population who violate regulations and laws, but he remains concerned that some of Staff's proposed amendments will greatly impact the other 98-99% of the population who are law-abiding citizens. He reminds Staff that, especially in today's economy, many people need help, especially young people. He doesn't believe any homeowner should be penalized for providing a home to a family member who desires to make monetary contributions to the homeowner. He is somewhat concerned about the limitations imposed on homeowners, such as "no wet-bars,

Administrative:

no microwave ovens", because one restriction almost always leads to another. Commissioner Norby believes guests should have the ability to prepare small meals in the units. He points out that humans are very resourceful, and when options become limited, humans become creative and violations occur. He believes Staff's recommendations eliminate the good that could potentially from the Ordinance in an effort to stop the 1-2% of the population who are violating the regulations. Commissioner Norby clarifies that while he supports Staff's intentions, he prefers that the prohibition against renting guest quarters be eliminated, or that Staff devise an exemption that allows homeowners to rent the units to family members only. County Counsel cautions that constitutional standards don't permit implementation of land use regulations that base classifications on relationships.

Commissioner Brooks sympathizes with the concerns raised by Commissioner Norby's concerns, as does Commissioner Pallinger. However, and in deference to Commissioner Norby, Commissioner Brooks explains that years of experience have proven to him the number of those who knowingly violate regulations far exceeds 1-2% of the population. Commissioner Brooks believes the introduction of plumbing into some of the units can sometimes encourage property owners to violate regulations and laws. He believes the second dwelling unit category would resolve the concerns discussed by Commissioner Norby, as does Commissioner Pallinger.

Action: Pallinger – Brooks

Recommend that the Board of Supervisors adopt Staff's proposed Zoning Ordinance amendments (POD 08-005) to reduce the number of accessory dwellings into two types: Second Dwelling Units and Guest Living Quarters, and repeal the Accessory Apartments and Accessory Living Quarters provisions.

Ayes:	7 -	Beck, Brooks, Day, Norby, Pallinger, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	0 -	None

GPA 05-010, SP 03-003, R04-008,
TM 5295RPL⁶ and S04-015, Agenda Item 3:

3. Sugarbush, General Plan Amendment (GPA) 05-010, Specific Plan (SP) 03-003, Zone Reclassification R04-008, Tentative Map (TM) 5295RPL⁶, and Site Plan 04-015, North County Metropolitan Subregional Plan Area

Proposed development of 45 residential lots on the 115.5-acre project site located at the southern terminus of Sugarbush Drive, and western terminuses of Cleveland Trail and Lone Oak Lane. Access to the site is proposed via Sugarbush Drive with an emergency secondary access via Cleveland Trail. The project includes five discretionary Permit applications as follows: the proposed General Plan Amendment (GPA 05-010) would change the Land Use Designation on this property from (17) Estate to (21) Specific Plan; the Specific Plan (SP 03-003) would limit overall density on the project site to 0.39 dwelling units per acre, require a minimum lot size of 0.5 acres, limit the project site to no more than 45 residential lots, require portions of the site that exceed 25% slope to be placed in permanent open space, and require a 500' buffer from the eastern property boundary.

The proposed Zoning Reclassification (R04-008) would change the zoning classification of the site from A70 (Limited Agriculture) to S88 (Specific Plan), reduce the density from 0.5 to 0.39 dwelling units per acre, reduce the minimum lot size from 2 acres to 0.5 acres, change the height designator from "G" to "E", and change the setback designator from "C" to "V"; the Tentative Map (TM 5295RPL⁶) would divide the 115.5 acres into a total of 45 residential lots ranging in size from 0.5 to 1.73 acres, two open space lots (Lots A and B) totaling 75.38 acres, two street lots (Lots C and D) and two detention/bioretenion lots (Lots E and F); and the Site Plan (S04-015) would establish the setbacks for the proposed residential lots pursuant to the "V" (Variable) setback designator.

Proponents: 8; Opponents: 45

Discussion:

Following Staff's and the applicant's presentations, many of those opposed to the project voice concerns about the potential impacts on traffic circulation, emergency access provisions, the adequacy and safety of the proposed road improvements, landscaping provisions and the proposed retaining wall, visual impacts and the availability of water. They are also very concerned about this project's compatibility with the rural character of the area, and insist that an EIR

**GPA 05-010, SP 03-003, R04-008,
TM 5295RPL⁶ and S04-015, Agenda Item 3:**

be required to address project impacts and examine project alternatives. They also insist that the proposed project will require approval of both a 404 and a 1601 Permit. Project opponents remind the Planning Commission that Cleveland Trail is not a public road, but a very narrow private road, and they express concerns about the adequacy of site distance at the Buena Creek Road/Sugar Bush Road intersection.

The applicant's representatives inform the Planning Commission that the project includes all of the recommendations provided by Staff, the community residents and the various resource agencies. The density of the project has been reduced by 28%, along the western boundary of the site, rear-yard setbacks have been increased, and a great deal of landscaping will be provided. In addition, the proposal integrates a connecting trail, incorporates open iron fencing and a plantable wall, and preserves 67% of the site in open space. The applicant's representatives inform the Commission that onsite mitigation will be provided for all environmental impacts. They believe the project is environmentally sound, and the design of the open space provides the wildlife agencies with the ability to expand and connect with other open space. The applicant's representatives remind the Planning Commission that an approved fire management plan addressing secondary access has been provided. Staff informs the Commission that the applicant has obtained easement rights for improving Cleveland Trail. In addition, the applicant is aware that drainage impacts will require evidence that a 404 Permit is not required. Following presentations from Staff, the applicant's representatives and the public, the Planning Commissioners agree that additional information is needed in order to make recommendations to the Board of Supervisors.

Action: Day – Woods

Continue consideration of GPA 05-010, SP 03-003, R04-008, TM 5295RPL⁶, and S04-015 to the meeting of 02/27/09, to allow Staff to return prepared to discuss the issues raised below by Commissioners Beck, Woods and Norby:

Commissioner Beck greatly supports the proposed clustering and overall design of this project, and expresses his belief that clustering is essential for the health of our resources and environment. However, he has several concerns and requests that Staff return prepared to respond to the following questions:

- (1) Is the open space is deed restricted?
- (2) Will the open space be enrolled in the NCCP?

**GPA 05-010, SP 03-003, R04-008,
TM 5295RPL⁶ and S04-015, Agenda Item 3:**

- (3) When will the biological resource maintenance/monitoring plan be provided?
- (4) Has funding for open space maintenance/monitoring been secured?
- (5) When will the required PAR be provided; (Commissioner Beck believes allowing the applicant's consultant to perform the PAR is a conflict of interest)?
- (6) Who will own fee title to this land?
- (7) What are the fire-safety clearing requirements?
- (8) Will signs and trails for the open space be provided?
- (9) Will there be limited building zones?
- (10) Is the applicant required to restore Coastal sage scrub onsite?
- (11) Is the wildlife crossing under Sugarbush functional and if so, for what wildlife? and
- (12) Does Staff believe the five-year-old biological technical report is adequate.

Commissioner Woods directs that the Commission be provided with the following on February 27, 2009:

- (13) Copies of improvement plans referred to by the applicant's representative;
- (14) Information as to whether the 404 and 1601 Permits are necessary per those plans; and
- (15) Views or renderings of the proposed landscaping wall and slope, and information regarding native versus non-native plant pallet.

Commissioner Norby requests that Staff return prepared to discuss:

- (16) Whether the project will impact traffic; and
- (17) Whether the trail will be used by pedestrians and non-motorized vehicles.

**GPA 05-010, SP 03-003, R04-008,
TM 5295RPL⁶ and S04-015, Agenda Item 3:**

In response to two of Commissioner Beck's questions, Staff informs the Commission that the Helix Community Conservancy will be the open space owners and habitat managers, and the open space will be dedicated to the County of San Diego once the final Resource Management Plan is provided.

Commissioner Norby notes that this is a rather bucolic community and concurs with Commissioner Beck regarding supporting the proposed clustering. However, he advises the applicant to ensure that this proposal doesn't result in suburban tract-type clustering. Commissioner Norby reminds those in attendance today that land developers must begin to take advantage of nature's resources - such as sunlight and solar energy - when determining where and how to locate homes, and ensure that their developments don't detract from neighboring property owners' rights.

Ayes:	6 -	Beck, Day, Norby, Pallinger, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	1 -	Brooks

P78-038W⁷, Agenda Item 4:

4. St. Peter's Church Classroom Addition, Major Use Permit P78-038W⁷, Valle De Oro Community Plan Area

Request for a Major Use Permit Modification to authorize the construction and use of a 6,338 square-foot addition to an existing social hall building. The addition would house classrooms for Bible Study and religious education classes. The project site, located at 1627 Jamacha Way, is subject to the General Plan Regional Category of Current Urban Development Area (CUDA), Land Use Designation (3) Residential, and is zoned A70 – Limited Agriculture.

Staff Presentation: Johnston

Proponents: 3; **Opponents:** 0

Discussion:

This Item is approved on consent.

Action: Day – Pallinger

Grant Major Use Permit P78-038W⁷, which makes the appropriate Findings and includes those requirements and Conditions necessary to ensure that the project is implemented in manner consistent with the Zoning Ordinance and State Law.

Ayes:	7 -	Beck, Brooks, Day, Norby, Pallinger, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	0 -	None

Administrative:

G. Director's Report:

- **Appointment to Fire Mitigation Fee Review Committee to replace retired Commissioner Kreitzer (Murphy)**

Action: Riess – Pallinger

Commissioner Day will represent the Planning Commission on the Fire Fee Review Committee.

Ayes: 6 - Beck, Day, Norby, Pallinger, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 1 - Brooks

- **Informational Item: Fire code requirements for secondary access and approach to assure compliance (Murphy)**

Action: Beck – Day

Postpone Staff's presentation of the fire code requirements for secondary access to the Director's Report of February 27, 2009.

Ayes: 6 - Beck, Day, Norby, Pallinger, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 1 - Brooks

- **Oral report on upgrading the hearing room infrastructure to improve audio quality and video capture/display (Winslow)**

Action: Beck – Day

Postpone Staff's presentation of the DPLU's Hearing Room Upgrade to the Director's Report of February 27, 2009.

Ayes: 6 - Beck, Day, Norby, Pallinger, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 1 - Brooks

Administrative:

- **Results from Board of Supervisors Hearing(s) of Items Previously Considered by the Planning Commission (Gibson)**

No reports.

H. Report on actions of Planning Commission's Subcommittees:

No reports.

I. Designation of member to represent the Planning Commission at Board of Supervisors meeting(s):

Commissioner Riess will represent the Planning Commission at the February 25, 2009 Board of Supervisors meeting.

J. Discussion of correspondence received by the Planning Commission:

None.

K. Scheduled Meetings:

No changes to the current meeting Schedule.

February 27, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
March 13, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
March 27, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
April 10, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
April 24, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
May 8, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
May 22, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
June 5, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
June 19, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room

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July 10, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
July 24, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
August 7, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
August 21, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 4, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 19, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 2, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 16, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 30, 2009	Planning Commission Workshop, 9:00 a.m., DPLU Hearing Room
November 13, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
December 4, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room
December 18, 2009	Regular Meeting, 9:00 a.m., DPLU Hearing Room

There being no further business to be considered at this time, the Chairman adjourned the meeting at 12:46 p.m. to 9:00 a.m. on February 27, 2009 in the DPLU Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California.